

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 594

99TH GENERAL ASSEMBLY

2018

4841S.01T

AN ACT

To repeal section 379.321, RSMo, and to enact in lieu thereof one new section relating to insurance markets for commercial insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 379.321, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 379.321, to read as follows:

379.321. 1. Every insurer shall file with the director, except as to
2 commercial property or commercial casualty insurance as provided in subsection
3 6 of this section, every manual of classifications, rules, underwriting rules and
4 rates, every rating plan and every modification of the foregoing which it uses and
5 the policies and forms to which such rates are applied. Any insurer may satisfy
6 its obligation to make any such filings by becoming a member of, or a subscriber
7 to, a licensed rating organization which makes such filings and by authorizing the
8 director to accept such filings on its behalf, provided that nothing contained in
9 section 379.017 and sections 379.316 to 379.361 shall be construed as requiring
10 any insurer to become a member of or a subscriber to any rating organization or
11 as requiring any member or subscriber to authorize the director to accept such
12 filings on its behalf. Filing with the director by such insurer or licensed rating
13 organization within ten days after such manuals, rating plans or modifications
14 thereof or policies or forms are effective shall be sufficient compliance with this
15 section.

16 2. Except as to commercial property or commercial casualty insurance as
17 provided in subsection 6 of this section, no insurer shall make or issue a policy
18 or contract except pursuant to filings which are in effect for that insurer or
19 pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 plans, rules, classifications or systems, in effect on August 13, 1972, shall be
21 continued in effect until withdrawn by the insurer or rating organization which
22 filed them.

23 3. Upon the written application of the insured, stating his or her reasons
24 therefor, filed with the insurer, a rate in excess of that provided by a filing
25 otherwise applicable may be used on any specific risk.

26 4. Every insurer which is a member of or a subscriber to a rating
27 organization shall be deemed to have authorized the director to accept on its
28 behalf all filings made by the rating organization which are within the scope of
29 its membership or subscribership, provided:

30 (1) That any subscriber may withdraw or terminate such authorization,
31 either generally or for individual filings, by written notice to the director and to
32 the rating organization and may then make its own independent filings for any
33 kinds of insurance, or subdivisions, or classes of risks, or parts or combinations
34 of any of the foregoing, with respect to which it has withdrawn or terminated
35 such authorization, or may request the rating organization, within its discretion,
36 to make any such filing on an agency basis solely on behalf of the requesting
37 subscriber; and

38 (2) That any member may proceed in the same manner as a subscriber
39 unless the rating organization shall have adopted a rule, with the approval of the
40 director:

41 (a) Requiring a member, before making an independent filing, first to
42 request the rating organization to make such filing on its behalf and requiring
43 the rating organization, within thirty days after receipt of such request, either:

44 a. To make such filing as a rating organization filing;
45 b. To make such filing on an agency basis solely on behalf of the
46 requesting member; or

47 c. To decline the request of such member; and

48 (b) Excluding from membership any insurer which elects to make any
49 filing wholly independently of the rating organization.

50 5. Any change in a filing made pursuant to this section during the first
51 six months of the date such filing becomes effective shall be approved or
52 disapproved by the director within ten days following the director's receipt of
53 notice of such proposed change.

54 6. Commercial property and commercial casualty requirements differ as
55 follows:

56 (1) **[All]** Commercial property and commercial casualty insurance rates,
57 rate plans, modifications, and manuals of classifications, [where appropriate]
58 **except as specified in subdivision (2) of this subsection**, shall be filed with
59 the director for informational purposes only **within ten days of use**. Such rates
60 are not to be reviewed or approved by the department of insurance, financial
61 institutions and professional registration as a condition of their use. Nothing in
62 this subsection shall require the filing of individual rates where the original
63 manuals, rates and rules for the insurance plan or program to which such
64 individual policies conform have already been filed with the director;

65 (2) **Subject to the provisions of subdivision (4) of this subsection,**
66 **commercial property and casualty underwriting rules or guidelines,**
67 **rates, rate plans, modifications, and manuals of classification are**
68 **exempt from filing requirements otherwise applicable under this**
69 **chapter, whether the insurance coverage is endorsed to or otherwise**
70 **made part of another type of insurance or sold as a stand-alone policy;**

71 (3) **Subject to the provisions of subdivision (4) of this subsection,**
72 **commercial property and casualty insurance policy forms are exempt**
73 **from filing requirements otherwise applicable under this chapter when**
74 **the aggregate total annual commercial insurance premiums for all**
75 **property and casualty insurance purchased by a commercial**
76 **policyholder, excluding premiums for the types of insurance specified**
77 **in subdivision (4) of this subsection, are equal to or exceed one**
78 **hundred thousand dollars and the commercial policyholder employs a**
79 **full time risk manager or has retained a licensed insurance producer**
80 **to negotiate on its behalf;**

81 (4) **The filing exemptions in subdivisions (2) and (3) of this**
82 **subsection shall not apply to:**

83 (a) **Workers' compensation;**

84 (b) **Medical malpractice liability;**

85 (c) **Farm property and liability;**

86 (d) **Any coverage issued by an assigned risk or residual market**
87 **plan pursuant to section 303.200; and**

88 (e) **Any specific policy or bond required by the division of**
89 **workers' compensation of a self-insured employer or group trust, their**
90 **trustees, or entities providing services to self-insured employers or**
91 **group trusts.**

92 (5) **All policies exempt from filing pursuant to subdivisions (2)**

93 **or (3) of this subsection shall include, at the time of policy issuance, a**
94 **notice advising the policy holder that the policy may include rates or**
95 **forms exempt from filing with the department. Such notice shall state**
96 **that this policy may include rates and forms which may not be filed**
97 **with the Missouri department of insurance, financial institutions and**
98 **professional registration;**

99 **(6)** If an insurer will only renew a commercial casualty or commercial
100 property insurance policy with an increase in premium of twenty-five percent or
101 more, a "premium alteration requiring notification" notice must be mailed or
102 delivered by the insurer at least sixty days prior to the expiration date of the
103 policy, except in the case of an umbrella or excess policy the coverage of which is
104 contingent on the coverage of an underlying policy of commercial property or
105 casualty insurance, in which case notice of an increase in premium of twenty-five
106 percent or more shall be mailed or delivered at least thirty days prior to the
107 expiration date of the policy. Such notice shall be mailed or delivered to the
108 agent of record and to the named insured at the address shown in the policy. If
109 the insurer fails to meet this notice requirement, the insured shall have the
110 option of continuing the policy for the remainder of the notice period plus an
111 additional thirty days at the premium rate of the existing policy or contract. This
112 provision does not apply if the insurer has offered to renew a policy without such
113 an increase in premium or if the insured fails to pay a premium due or any
114 advance premium required by the insurer for renewal. For purposes of this
115 section, "premium alteration requiring notification" means an annual increase in
116 premium of twenty-five percent or more, exclusive of premium increases due to
117 a change in the operations of the insured which increases either the hazard
118 insured against or the individual loss characteristics, or due to a change in the
119 magnitude of the exposure basis, including, without limitation, increases in
120 payroll or sales. For commercial multiperil policies, no "premium alteration
121 requiring notification" shall be required unless the increase in premium for all
122 of a policyholder's policies taken together amounts to a twenty-five percent or
123 more annual increase in premium;

124 **[(3)] (7)** Commercial property and commercial casualty policy forms,
125 **except as specified in subdivision (3) of this subsection,** shall be filed with
126 the director **within ten days of use** as provided pursuant to subsection 1 of this
127 section. However, if after review, it is determined that corrective action must be
128 taken to modify the filed forms, the director shall impose such corrective action

129 on a prospective basis for new policies. All policies previously issued which are
130 of a type that is subject to such corrective action shall be deemed to have been
131 modified to conform to such corrective action retroactive to their inception date;

132 **(8) An insurer renewing a policy issued with policy forms not**
133 **filed with the director pursuant to subdivision (3) of this subsection**
134 **shall provide written notice to the first named insured and producer of**
135 **record, if any, at least ten days prior to the current policy's expiration**
136 **date if, after renewal, there will be a material restriction or reduction**
137 **in coverage not specifically requested by the insured, required by law**
138 **or based on the altered nature or extent of the risk insured. The notice**
139 **may be in a printed or electronic form and shall explain what coverage**
140 **will be reduced or eliminated or what condition will be restricted. It**
141 **shall be a rebuttable presumption that all insureds received the notice**
142 **if it was sent by email or first-class mail to the first named insured's**
143 **last known email address or mailing address contained in the policy. If**
144 **the insurer has not so notified the policyholder, the policyholder may**
145 **elect to cancel the renewal policy within thirty days of delivery of the**
146 **renewal policy and the earned premium for the time the renewal policy**
147 **was in force shall be calculated pro rata at the lower of the current or**
148 **previous year's rate. If the insured accepts the renewal, any premium**
149 **change or alteration of coverage, terms or conditions shall be effective**
150 **immediately upon the expiration of the prior policy. Nothing in this**
151 **subdivision shall restrict the right of the parties to an insurance**
152 **contract to amend an insurance policy if requested by the insured**
153 **without the requirement for any notice;**

154 **[(4)] (9) For purposes of this section, "commercial casualty" means**
155 **"commercial casualty insurance" as defined in section 379.882. For purposes of**
156 **this section, "commercial property" means property insurance, which is for**
157 **business and professional interests, whether for profit, nonprofit or public in**
158 **nature which is not for personal, family or household purposes, and shall include**
159 **commercial inland marine insurance, but does not include title insurance;**

160 **[(5)] (10) Nothing in this subsection shall limit the director's authority**
161 **over excessive, inadequate or unfairly discriminatory rates or affect the**
162 **application of any laws governing unfair trade practices, unfair claims**
163 **practices, or the content of policy forms;**

164 **(11) The commercial casualty and commercial property**
165 **insurance filing requirement exemptions included in this section shall**

166 **apply to all property and casualty insurance policies issued or renewed**
167 **on or after January 1, 2019.**

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